

**ORDER SETTING BENCH TRIAL, FINAL PRETRIAL CONFERENCE, AND
REQUIREMENTS FOR THE PROPOSED FINAL PRETRIAL ORDER**

IT IS ORDERED:¹

I. TRIAL DATE: This case has been placed on the calendar of United States District Court Judge Linda R. Reade for a bench trial scheduled to commence in the Third Floor Courtroom of the Federal Courthouse in Cedar Rapids, Iowa, at some time during the **two-week period beginning on _____, 200__**. The exact dates and times of the trial will be determined closer in time to the trial date.

II. CONTINUANCE OF TRIAL OR FINAL PRETRIAL CONFERENCE DATES: Unless requested within **14 days** after the date of this order, no continuance of the trial date will be granted except upon written application and for exceptional cause.²

III. FINAL PRETRIAL CONFERENCE: A final pretrial conference (“FPTC”) is scheduled before **Judge Reade** on _____, _____ at _____.m. The FPTC will be held **in person in the Third Floor Courtroom** of the Federal Courthouse in Cedar Rapids, Iowa.³

¹ This order was revised on December 13, 2006. The parties are alerted to the fact that their duties and responsibilities have changed from what was required by earlier trial setting orders.

² Deadlines as specified herein apply to the original trial date or any subsequent trial date to which the trial is continued.

³ The parties may seek special permission from the court to appear telephonically at the FPTC. The court will require that all parties appear in the same manner—either telephonically or in person.

IV. CONSENT TO MAGISTRATE JUDGE: If the parties intend to consent to the exercise of jurisdiction by the Magistrate Judge, they shall sign and file the consent form, which will authorize the Magistrate Judge to dispose of the case. The consent form can be found on the court's website at *www.iand.uscourts.gov*. The consent must be filed by the dispositive motions deadline.⁴ In exceptional cases, the parties may seek leave of court for permission to consent after that deadline, however, it is not likely that the court will agree to transfer jurisdiction to the Magistrate Judge after the dispositive motions deadline.

V. FINAL PRETRIAL ORDER: The parties are jointly responsible for the preparation of the proposed Final Pretrial Order. *See* LR 16.2(b). Before the FPTC, pro se parties and counsel for represented parties must prepare, agree upon and sign a proposed Final Pretrial Order prepared for Judge Reade's signature in the format attached to this order. A copy of the proposed order must be received by Judge Reade via email at *Diane_Leibold@iand.uscourts.gov* **and** *Teresa_Baumann@iand.uscourts.gov* (but not filed) at least **2 court days** before the FPTC.⁵

VI. WITNESS AND EXHIBIT LISTS: Exhibit lists must be attached to, and witness lists must be included as part of, the proposed Final Pretrial Order, in accordance with the instructions in the attached form order. The parties are not required to list rebuttal witnesses or impeachment exhibits; however, the exhibits should be marked as

⁴ The dispositive motions deadline shall be set forth in the Scheduling Order and Discovery Plan.

⁵ All documents emailed to Judge Reade pursuant to this order should list the case name and number in the subject line. Opposing counsel should be copied on each email. In the event a pro se party does not have access to an email account, the pro se party shall deliver the proposed order to Judge Reade's chambers via U.S. mail, facsimile or hand-delivery.

described in the following section. Proposed witness and exhibit lists must be exchanged by the parties (but not filed) at least **15 court days** before the FPTC. At the time the parties exchange their exhibit lists, they also must give written notice to all adverse parties of any intent to use a declaration under Federal Rules of Evidence 803(6), 902(11) or 902(12) to establish foundation for records of regularly conducted activities, and must immediately thereafter make the records and the declaration available for inspection. The parties have a continuing duty to keep the lists current and correct, with opposing parties and the court.

VII. EXHIBITS: Exhibits must be prepared for trial in accordance with the following instructions:

A. *Marking of Exhibits.* All exhibits must be marked by the parties before trial, in accordance with Local Rule 83.7(a). The plaintiff(s) should use numbers and the defendant(s) should use letters. *See* LR 83.7(a)(1). Exhibits also must be marked with the case number. *See* LR 83.7(a)(2). All exhibits longer than one page must contain page numbers at the bottom of each page. *See* LR 83.7(a)(3). Personal Data Identifiers **must** be redacted from all exhibits. *See* LR 10.1(h).

B. *Elimination of Duplicates.* The parties should compare the exhibits and eliminate duplicates. If more than one party wants to offer the same exhibit, then it should be marked with a number and listed as a joint exhibit on the plaintiff's (s') exhibit list.

C. *Listing of Exhibits and Objections.* Exhibits must be listed separately, unless leave of court is granted for a group exhibit. If a party objects to parts of an exhibit but not to other parts, the offering party must prepare separate versions of the exhibit, one that includes the parts to which objections are being asserted and another that redacts those parts.

D. Copies for the Court. Two court days before trial, each party must supply Judge Reade with a hard copy of all exhibits to be used at trial. The parties must place the hard copy in one or more three-ringed binders with a copy of the exhibit list at the front and with each exhibit tabbed. *See* LR 83.7(c). The parties may also supply Judge Reade with a courtesy copy of the exhibits in PDF format on a compact disk. The court's copies of exhibits shall be separate from the original trial exhibits for the official records of the Clerk of Court.

E. Objected-to Exhibits. Copies of all exhibits as to which there may be objections must be brought to the FPTC. If the parties have been granted special permission to appear telephonically for the FPTC, they shall provide the court with copies of the objected-to exhibits prior to the FPTC. If an exhibit is not brought to the FPTC and an objection to the exhibit is asserted at the FPTC, the exhibit may be excluded from evidence for noncompliance with this order.

VIII. TRIAL BRIEFS: If the trial of a case will involve significant issues not adequately addressed by the parties in connection with dispositive motions or other pretrial motions, the parties must prepare trial briefs addressing such issues and electronically file their trial briefs.⁶

IX. PROTOCOL FOR WITNESSES: An attorney who may call a witness to testify at trial must, before the witness testifies, advise the witness of the accepted protocol for witnesses testifying in this court. This advice should include the following information: (A) the location of the witness box; (B) the proper route from the courtroom door to the

⁶ In the case of pro se parties who do not have access to the court's CM/ECF electronic filing system, such parties shall file hard copies of documents with the Clerk of Court in each instance where this order mandates electronic filing.

witness box;⁷ (C) the fact that the witness will be placed under oath; (D) where the witness should stand while the oath is being administered; (E) that the witness should adjust the witness chair and the microphone so the microphone is close to and directly in front of the witness's mouth; (F) that the witness should speak only in response to a question; (G) that the witness should wait for a ruling on any objections before proceeding to answer a question; (H) that the witness should answer all questions verbally; and (I) that substances such as food, beverages and chewing gum should not be brought into the courtroom.

The attorney also must advise the witness of proper dress for the courtroom. Proper dress does not include blue jeans, shorts, overalls, T-shirts, collarless shirts, shirts with printed words or phrases on the front or back, tank tops or the like.

X. RESTRICTIONS ON WITNESSES:

A. Exclusion of Witnesses. A witness who may testify at the trial or at an evidentiary hearing shall not be permitted to hear the testimony of any other witnesses before testifying, and is excluded from the courtroom during the trial or hearing until after the witness has completed his or her testimony, unless exclusion of the witness is not authorized by Federal Rule of Evidence 615 or unless the court orders otherwise. A witness who is excluded from the courtroom pursuant to this paragraph also is prohibited from reviewing a verbatim record of the testimony of other witnesses at the trial or hearing until after the witness has completed his or her testimony at the trial or evidentiary hearing, unless the court orders otherwise.

B. Restrictions on Communications with Witnesses. Unless the court orders otherwise, after the commencement of the trial or an evidentiary hearing and

⁷A map displaying this route is attached to this order. A copy of this map should be provided to each witness who is unfamiliar with the layout of the courtroom by the attorney calling the witness to testify.

until the conclusion of the trial or hearing, a witness who may testify at the trial or hearing is prohibited from communicating with anyone about what has occurred in the courtroom during the trial or hearing. If the witness does testify at the trial or hearing, after the witness is tendered for cross-examination and until the conclusion of the witness's testimony, the witness is prohibited from communicating with anyone about the subject matter of the witness's testimony. A witness may, however, communicate with his or her attorney about matters of privilege, and may communicate with anyone if the right to do so is guaranteed by the United States Constitution.

C. Parties. The restrictions on witnesses in paragraphs (A) and (B) of this section do not apply to the parties.

D. Duties of Counsel. An attorney who may call a witness to testify at the trial or an evidentiary hearing must, before the trial or hearing, advise the witness of these restrictions in this section and the court's ruling on any motion in limine.

XI. TESTIMONY BY DEPOSITION: With respect to any witness who will appear by deposition, at least **15 court days** before trial, the party intending to offer the witness must serve on the opposing parties a written designation, by page and line number, of those portions of the deposition the offering party intends to have read into evidence. At least **10 court days** before trial, an opposing party must serve on the offering party any objections to the designated testimony and a counter-designation, by page and line number, of any additional portions of the deposition which the opposing party intends to have read into evidence. At least **5 court days** before trial, the party offering the witness must serve upon the opposing parties any objections to the designated testimony and a written designation, by page and line number, of any additional portions of the deposition the

offering party intends to submit into the record. At least **3 court days** before trial, the parties must consult, either personally or by telephone, and attempt to work out any objections to the proposed deposition testimony.

Preferably at the FPTC, but, in any event, **not less than 48 hours before the deposition testimony is offered into evidence**, the offering party must provide the court with the following: (1) a full copy of the deposition transcript or recording; (2) a redacted exhibit containing only the lines of the transcript or parts of the video recording to be admitted into evidence; (3) a statement listing all unresolved objections to the deposition testimony; and (4) the parties' combined list of all of the portions of the deposition to be admitted into evidence (listing transcript sections by page and line number and video recordings by counter number).

The court will review any objections, listen to any arguments and make any necessary rulings. The court also will expect the parties to edit any video deposition accordingly.

The court does not require the court reporter to report the reading of deposition transcripts or the playing of video deposition testimony. The court considers a deposition transcript to be read as published in the written version. The parties should make a record as to any misreads of the transcript at the conclusion of the reading of the transcript.

All references in depositions to exhibit numbers or letters must be changed to correspond to the exhibit designation for trial.

Prior to the close of evidence, the party offering the deposition testimony must furnish the original deposition video recording to the court to be preserved as part of the official record. The offering party must clearly highlight the portions of the transcript or video recording which were read to the jury. The transcript or video recording will be marked as a court exhibit and preserved as part of the official record.

XII. MOTIONS:

A. Pretrial Motions. The parties are required to notify the court by motion in limine or by motion under Federal Rule of Evidence 104(a) of any novel, unusual or complex legal, factual or procedural issues reasonably anticipated to arise at trial. **Each parties' motion in limine shall be submitted in one document only.** If a motion in limine is submitted in multiple documents, the court will only consider the first document filed. Each motion must be served and filed at least **10 court days** before the FPTC. A resistance to a motion in limine must be served and filed within **5 court days** after service of the motion. **All pretrial motions, including motions in limine, will be argued at FPTC**, unless the court enters a written ruling on the motion before the FPTC.

B. Summary Judgment Motions. Each party must file only **one** summary judgment motion. Absent a showing of extraordinary circumstances, the court will only consider the first summary judgment motion filed.

XIII. OPENING STATEMENTS; CLOSING ARGUMENTS: Opening statements are limited to **30 minutes** and closing arguments are limited to **one hour**. A request for additional time for opening statements or closing arguments must be made no later than the commencement of trial.

XIV. COURTROOM TECHNOLOGY: Prior to trial, attorneys and witnesses who intend to utilize the technology available in the courtroom must familiarize themselves with the proper manner of operation of the equipment. Instruction and training on the proper use of the equipment may be obtained from Rick Hunt, a member of the court's automation staff. Parties may call 319-286-2300 to schedule an appointment. Information also may be obtained from the court's website at the following web address: www.iand.uscourts.gov. The court encourages attorneys to consult the website, but such

consultation is not a substitute for the requirement that attorneys must consult and train with the court's automation staff if they wish to use any of the courtroom equipment during trial.

If an attorney wishes to use video conferencing technology for the testimony of any witness, the attorney **must** contact the court's automation staff and complete a "Video Conference End-End Certification" form **at least 7 court days in advance of the start of the trial**. The court will require at least one test connection prior to the start of trial. **Failure to comply with the court's requirements for video conferencing will result in the court denying the opportunity to have a witness testify via video conferencing.**

If an attorney wishes to connect a laptop computer to the courtroom equipment, the attorney **must** have the laptop computer tested by the court's automation staff **at least 5 court days in advance of the start of the trial**. **Failure to have the laptop computer tested will result in the court denying the connection of the laptop computer to the courtroom equipment.**

If an attorney wishes to present evidence in the form of a VHS tape, a DVD, an audio cassette, an audio CD or any other form of media requiring use of the courtroom equipment, the attorney **must** have such items of evidence tested by the court's automation staff at least **5 court days** in advance of the start of the trial to ensure compatibility with the courtroom equipment.

XV. SETTLEMENT CONFERENCE: Any party desiring a settlement conference should contact the Magistrate Judge at 319-286-2340. Such contact should be made at the earliest opportunity. Such contact may be *ex parte* for the sole purpose of requesting a settlement conference. A settlement conference will be scheduled with a Magistrate Judge who will not be involved in trying the merits of the case.

XVI. SETTLEMENT DEADLINE: The court hereby imposes a settlement deadline of **5:00 p.m., 3 court days** before the first scheduled day of trial. If the case is settled after that date, the court may enter an order to show cause why costs and sanctions should not be imposed on the party or parties causing the delay in settlement.

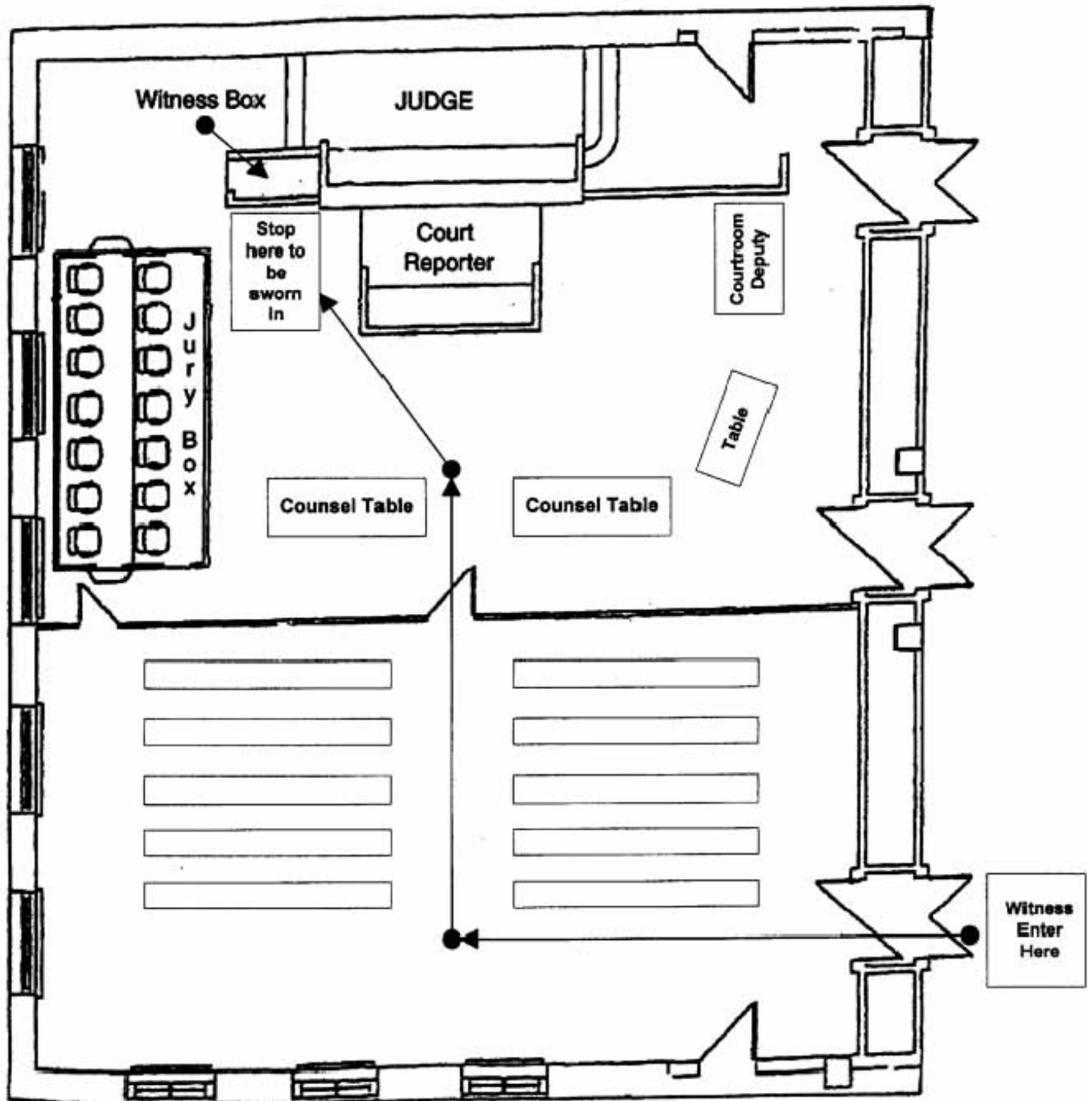
IT IS SO ORDERED.

DATED this ____ day of _____, 200__.

A handwritten signature in black ink, appearing to read "Linda R. Reade", is written over a horizontal line.

LINDA R. READE
CHIEF JUDGE, U. S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA

MAP OF THE THIRD FLOOR COURTROOM
FEDERAL BUILDING, CEDAR RAPIDS, IOWA



UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF IOWA
_____ DIVISION

[INSERT PARTIES AND CASE NUMBER]

**FINAL PRETRIAL
ORDER
(PROPOSED)**

[NOTE: Instructions for preparing this form appear in brackets and should not be reproduced in the proposed Final Pretrial Order. All material not appearing in brackets should be reproduced in the proposed Final Pretrial Order.]

This final pretrial order was entered after a final pretrial conference held on [date]. The court expects the parties to comply fully with this order. ***[Full compliance with the order will assist the parties in preparation for trial, shorten the length of trial, and improve the quality of the trial. Full compliance with this order also will help “secure the just, speedy, and inexpensive determination” of the case. Fed. R. Civ. P. 1.]***

The following counsel, who will try the case, appeared at the conference:

1. For plaintiff(s):
Name(s)
Street Number, Street Name and/or Box Number
City, State and Zip Code
Phone Number [include area code]
Facsimile Number [include area code]
E-mail address [if available]

2. For defendant(s):
Name(s)
Street Number, Street Name and/or Box Number
City, State and Zip Code
Phone Number [include area code]
Facsimile Number [include area code]
E-mail address [if available]

I. STIPULATION OF FACTS: The parties agree that the following facts are true and undisputed:*[The parties are to recite all material facts as to which there is no dispute. Special consideration should be given to such things, for example, as life and work expectancy, medical and hospital bills, funeral expenses, cause of death, lost wages, back pay, the economic value of fringe benefits, and property damage. The parties should stipulate to an undisputed fact even if the legal relevance of the stipulated fact is questioned by one or more party, but in such instances the stipulated fact should be followed by an identification of the objecting party and the objection (e.g. “Plaintiff objects to relevance.”)]*

A.

B.

II. EXHIBIT LIST: The parties’ exhibit lists are attached to this Order.*[The parties are to **attach to this order** (not include in the body of the order) exhibit lists that list all exhibits (except for impeachment exhibits) each party intends to offer into evidence at trial. Exhibit lists are to be prepared in the attached format, indicating objections using the categories described in the form.*

*All exhibits are to be made available to opposing counsel for inspection at least **fifteen court days** before the date of the FPTC. Failure to provide an exhibit for inspection constitutes a valid ground for objection to the exhibit, and should be noted on the exhibit list.*

Copies of all exhibits as to which there may be objections must be brought to the FPTC. If an exhibit is not brought to the FPTC and an objection is asserted to the exhibit at the FPTC, the exhibit may be excluded from evidence by the court. Any exhibit not listed on the attached exhibit list is subject to exclusion at trial. The court may deem any objection not stated on the attached exhibit list as waived.]

III. WITNESS LIST: The parties intend to call the following witnesses at trial:*[Each party must prepare a witness list that includes all witnesses (except for rebuttal witnesses) whom the party intends to call to testify at trial. The parties are to exchange their separate witness lists at least **fifteen court days** before the date of the FPTC. The witness lists are to be included in the following format. A witness testifying by deposition must be listed in the witness list with a designation that the testimony will be by deposition.]*

A. Plaintiff(s) witnesses *[list name, **substance of testimony**, whether any party objects to the witness, and the nature of and grounds for any objection]:*

1.

2.

B. Defendant(s) witnesses *[list name, **substance of testimony**, whether any party objects to the witness, and the nature of and grounds for any objection]:*

1.

2.

All parties are free to call any witness listed by an opposing party. A party listing a witness guarantees his or her presence at trial unless it is indicated otherwise on the witness list. *Any objection to the offer of testimony from a witness on the witness list is waived if it is not stated on this list.*

V. EVIDENTIARY AND OTHER LEGAL ISSUES:

A. Plaintiff(s) Issues:

- 1.
- 2.

B. Defendant(s) Issues:

- 1.
- 2.

[The parties must list all unusual evidentiary and legal issues which are likely to arise at trial, including such things as disputes concerning the admissibility of evidence or testimony under the Federal Rules of Evidence; the elements of a cause of action; whether recovery is barred as a matter of law by a particular defense; disputes concerning the measure, elements, or recovery of damages; and whether the Statute of Frauds or the Parol Evidence Rule will be raised. The purpose of this listing of issues is to advise the court in advance of issues and problems that might arise at trial.]

IT IS SO ORDERED.

DATED this ____ day of _____, 20____.

**LINDA R. READE, CHIEF JUDGE
UNITED STATES DISTRICT COURT**

(PLAINTIFF’S) (DEFENDANT’S) EXHIBIT LIST [*Form*]

The following categories have been used for objections to exhibits:

- A. **Category A.** The exhibits shall be offered by the parties and admitted as evidence during trial before the parties seek to publish them to the court.
- B. **Category B.** These exhibits are objected to on grounds **other than** foundation, identification, or authenticity. This category has been used for objections such as hearsay or relevance.
- C. **Category C.** These exhibits are objected to on grounds of foundation, identification, or authenticity. This category **has not** been used for other grounds, such as hearsay or relevance.

(Plaintiff’s)(Defendant’s) Exhibits	Objections [Cite Fed. R. Evid.]	Category A, B, C	Offered	Admit/Not Admitted (A) - (NA)
1. [<i>describe exhibit</i>]				*
2. [<i>describe exhibit</i>]				
3. [<i>describe exhibit</i>]				
4. [<i>describe exhibit</i>]				
5. [<i>describe exhibit</i>]				

*[*This column is for use by the trial judge at trial. Nothing should be entered in this column by the parties.]*